REMARKS

Claims 1, 4-5, 7, 9, 12-17, 28-32, 48, 55, and 57-59 have been amended, claims 2-3, 8, 11, 39-47, 49-54, 56, and 60 have been cancelled without prejudice or disclaimer, claims 61-62 have been added, and claims 1, 4-7, 9-10, 12-17, 28-32, 48, 55, 57-59, and 61-62 are pending and under consideration. No new matter is presented in this Amendment.

REJECTIONS UNDER 35 U.S.C. §112:

Claims 14-17, 28-32, 40, and 60 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicants have cancelled claim 60 without prejudice or disclaimer; the rejection of this claim is thus moot. As for the remaining rejections, the applicants have amended the claims to remove the language objected to by the Examiner. Accordingly, the rejections under 35 U.S.C. § 112 should be withdrawn.

REJECTIONS UNDER 35 U.S.C. §101:

Claims 39 and 40 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 39 and 40 have been cancelled without prejudice or disclaimer; the rejection of claims 39 and 40 is therefore moot.

REJECTIONS UNDER 35 U.S.C. §102:

Claims 1, 2, 3, 5, 6, 8, 10, 11, 13, 14, 16, 28, 31, 39, 40, 41-46, 48-53, 56 and 60 are rejected under 35 U.S.C. §102(b) as being anticipated by Ko U.S. Publication 2002/0105868. The applicants respectfully traverse.

Ko does not disclose all of the limitations of claim 1. For example, Ko does not disclose "recording the data on the recording medium without defect management, if the defect management off mode is selected," as recited in claim 1.

The Examiner relies on the Ko publication as disclosing the defect management mode. The Ko publication discloses a recording medium for recording real-time data (abstract). Recording of real time data requires that the data be recorded within a given period of time, or

the data will be lost (paragraph 3). Thus, when recording real time data, real time data must be recorded on the disc quickly. The conventional linear-replacement defect management scheme, however, results in a delay in recording data on the disc when a defect is encountered, since the data is recorded in a replacement block located elsewhere on the disc (paragraph 10). This delay can result in difficulties when recording real-time data.

The Ko publication discloses a solution to this difficulty in the form of a defect management mode, which can indicate whether the linear replacement defect management method is to be used to manage defects on the disc. If the mode is set to "1", then defect management using linear replacement is not performed; otherwise, defect management using linear replacement is performed (paragraph 54). However, the linear replacement method may be performed even when the mode is set to "1". For example, as shown in FIG. 9, if the defect management mode is set to "1" (operation S101), but the data to be recorded is not real-time data (operation S103), then linear replacement defect management is performed (operation S102). Therefore, it is possible for linear replacement defect management to be performed even though the defect management mode is set to "1".

In contrast, the method of claim 1 includes an operation of "recording the data on the recording medium without defect management, if the defect management off mode is selected." The Ko publication, however, does not disclose a defect-management off mode in which defect management is not performed. The Ko publication discloses a defect management mode in which linear replacement defect management is not performed. However, this mode only prohibits linear replacement defect management; other forms of defect management are not prohibited. For example, Ko discloses that when recording real-time data, the location of the defect is still recorded, and an indication is recorded specifying that no replacement has been written (operation S107 of Fig. 9). Indeed, as shown in FIG. 9, the Ko publication expressly discloses that linear replacement defect management can be performed even when the defect management mode is set to "1". The Ko publication therefore only discloses modes in which some forms, but not all forms, of defect management are disabled. Ko does not disclose a defect-management-off mode in which defect management is not performed, and thus does not disclose recording data without defect management if the defect-management-off-mode is selected, as recited in claim 1.

The rejection of claims 13, 28, and 48 should be withdrawn for the reasons given above with respect to claim 1.

Claims 5, 6, 10, 11, 14, 16, and 31 depend from one of the corresponding claims 1, 13, and 28. The rejection of these claims should be withdrawn for at least the reasons given above with respect to the claims from which they depend.

REJECTIONS UNDER 35 U.S.C. §103:

Claim 4 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ko U.S. Publication 2002/0105868 in view of Park et al. U.S. Patent 6,477,126 in the alternative or further in view of Ko U.S. Patent 6,367,038. The applicants respectfully traverse.

Claim 4 depends from claim 1. Ko does not disclose all of the limitations of claim 1 for the reasons given above, and neither Park nor the Ko patent remedy these deficiencies. None of the references disclose a defect-management-off mode; the defect management mode disclosed in Park only determines whether a supplemental spare area will be allocated when the disc is formatted, not whether defect management will be performed at all. Defect management will be performed regardless of which mode is selected, and Park explicitly indicates that the supplemental spare area is later allocated according to need during subsequent defect management (col. 4, lines 33-7, 60-65). Similarly, the Ko patent does not address different defect management modes. Accordingly, the combination of the Ko publication and either Park or the Ko patent does not disclose or suggest all of the limitations of claim 4, and the rejection of claim 4 should be withdrawn.

Claims 7, 9, 12, 15, 17, 29-30, 32, 47, 54, 56, 58, and 59 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ko U.S. Publication 2002/0105868 in view of Park et al. U.S. Publication 2004/0179445. Claims 47, 54, and 56 have been cancelled without prejudice or disclaimer; the rejection of these claims is thus moot. The applicants traverse the remaining rejections.

As to claims 58 and 59, these claims depend from claim 55, which has not been rejected over the prior art of record. Accordingly, claims 58 and 59 are deemed allowable.

As to the remaining claims, claims 7, 9, 12, 15, 17, 29, 30, and 32, these claims depend from one of claims 1, 13, and 28. Ko does not disclose all of the limitations of claims 1, 13, and 28 for the reasons given above, and the Park publication does not remedy these deficiencies. In

particular, the Park remedy does not disclose different defect management modes, and thus does not disclose a defect management off mode. Accordingly, the combination of Ko and the Park publication does not disclose or suggest all of the limitations of claims 7, 9, 12, 15, 17, 29, 30, and 32, and the rejection of these claims should be withdrawn.

NEW CLAIMS:

Claims 61 and 62 have been added. Claims 61 and 62 are in condition for allowance for at least the reasons given above with respect to claim 1.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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